

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

J.D.D, a minor, by his Guardian ad Litem,
JAMES DELESTON,

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

Civil Action No.: 2:22-cv-495-BHH

**COMPLAINT
(FTC-Negligence; Negligence Per Se)**

(NON-JURY TRIAL DEMANDED)

Now come the Plaintiffs, J.D.D., a minor, by his Guardian ad Litem James Deleston, (hereinafter "Deleston"), and, by their undersigned attorney alleges in their complaint against Defendant, United States of America and will respectfully show unto this Honorable Court as follows:

FIRST: The Plaintiff is a citizen and resident of Berkely County, State of South Carolina; the same being within the district of South Carolina.

SECOND: Upon information and belief, the defendant, United States of America, through the United States Airforce is a Department of the U.S. Government and is subject to suit pursuant to the Federal Tort Claims Act.

THIRD: This action arises under 28 U.S.C. §2671 *et seq.* *{{(Federal Tort Claim Act)}}*
This Honorable Court has jurisdiction of the parties and subject matter set forth therein based on the Federal Tort Claims Act 28 USC § sec 1346.

FOURTH: On October 19, 2018, the Plaintiff was a passenger in the automobile who

was driven by, Shanell Deleston, who was operating her 2009 Toyota automobile bearing 2009 license tag LBL 566, heading west bound on North Rhett Avenue, near the town of Goose Creek, South Carolina and was stopped in traffic.

FIFTH: At the same time and date, the defendant, it's agent, servant, employee and or other representative, ANTARINN JAMAL BROWN, acting within the course and scope of his employment with defendant USA, failed to adequately slow and/or stop his vehicle for stopped traffic and collided into the back end of another vehicle stopped in traffic, directly behind Shanell Deleston's motor vehicle; striking that motor vehicle with severe force as to push it off of the roadway onto the median. That, after crashing into the back of the motor vehicle stopped directly behind Shanell Deleston's vehicle; the defendant's agent then crashed into the back of Shanell Deleston's motor vehicle which was lawfully stopped in traffic.

SIXTH: As a direct and proximate result of the defendant' agent's actions or inactions,

- a) The Plaintiff J.D.D suffered various serious personal bodily injuries which have in the past and most probably will in the future cause him to undergo physical and mental pain and suffering;
- b) Has in the past and most probably will in the future cause him to incur expenses for medical services;
- c) Has in the past and most probably in the future will cause trauma, mental anguish, loss of enjoyment of life, anxiety, annoyance, emotional injuries, inconvenience, permanent impairment and travel expenses related to medical care; all to him general damage and detriment.

SEVENTH: The Defendant by and through its agent, servant and representative, and/or employee was willful, wanton, negligent, reckless, careless and grossly negligent at the time and place aforementioned in one or more of the following particulars:

- a) In failing to use proper care and due diligence in the operation of a vehicle, a dangerous instrumentality;
- b) In operating or allowing to be operated a motor vehicle, a dangerous instrumentality in an unsafe manner;
- c) In failing to maintain a proper look out;
- d) In failing to keep its vehicle under proper control;
- e) In failing to timely apply brakes to its motor vehicle;
- f) In driving too fast for conditions in violation of SC Code Annotated § 56-5-1520; thereby constituting negligence, per se;
- g) In failing to yield right of way to plaintiff's motor vehicle in violation of SC code Annotated § 56-5-1580; thereby constituting negligence, per se;
- h) In generally failing to obey the traffic laws of the state of S.C. in violation of S.C. Code Annotated § 56-5-730, thereby constituting negligence per se;
- i) In following too closely in violation of S.C. Code Annotated § 56-5-1930, thereby constituting negligence per se;
- j) In colliding into the back end of Deleston' motor vehicle which was lawfully using the roadway;
- k) In generally failing to use a degree of care and caution in operating a motor vehicle that a prudent person would normally use under the same or similar

circumstances then and there prevailing, all of which were the direct and proximate cause of the injuries and damages suffered by the plaintiffs herein, said acts being in violation of statutory and common laws of the state of S.C.

EIGHTH: Under the applicable statutes, the person responsible for the operation of the defendant's vehicle, if they were a private person, would be liable to the plaintiff for his damages resulting from the collision.

NINTH: The motor vehicle driven by the defendant's agent and/or employee was owned by the U.S. Airforce, a department of the U.S. Government. The collision occurred when the defendant vehicle's driver was acting in the scope of his employment, agency or relationship with and on behalf of the U.S. Airforce.

TENTH: On October 26, 2020 the plaintiff presented their claims in writing to the U.S. Airforce for damages covering the collision herein, complaint in the amount of Ten Thousand dollars (\$10.000.00).

ELEVENTH: Defendant, USA, responded on January 6, 2021, by a staff attorney for the General Torts Branch and Litigation Division of the department of the Airforce; who made an offer to settle this case which was rejected by the plaintiff;

TWELTH: That as a direct and proximate result of the defendant's actions and/or inactions; the plaintiffs are informed and believe, he is entitled to a judgement against the defendant, an appropriate amount of actual damages, post-judgement interest, if applicable; cost of this action and such other relief as this Court may deem just and proper.

WHEREFORE, Plaintiffs pray for judgement against the defendant in an appropriate

amount of actual damages, post-judgement interest, if applicable, cost of this action, and such other and further relief as this Court may deem just and proper.

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By: /s/ Malcolm M. Crosland, Jr.
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Attorney for Plaintiffs

Charleston, South
Carolina February 11,2022